Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1979

No. 79-1893

FREEDOM INSTITUTE OF AMERICA,
FREEDOM CHURCH OF REVELATION,
ORDER OF FREEDOM OF CHOICE,
REVEREND JEROME HEINEMANN,

Petitioners,

v.

STATE OF NEW JERSEY,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

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FREEDOM INSTITUTE OF AMERICA,
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REVEREND JEROME HEINEMANN,

Petitioners,

v.

STATE OF NEW JERSEY,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

The Petitioners, Freedom Institute of America, Freedom Church of Revelation, Order of Freedom of Choice and Reverend Jerome Heinemann by their undersigned counsel, respectfully pray that a Writ of Certiorari issue to review the judgment and opinion of the Supreme Court of the State of New Jersey entered in this proceeding on March 3, 1980.

OPINIONS BELOW

The Supreme Court of New Jersey denied a Motion for Leave to Appeal and to Stay an Order of the Superior Court of New Jersey, Appellate Division, on March 3, 1980.

The Superior Court of New Jersey, Appellate Division, denied a Motion for Leave to Appeal and to Stay an Order of the Superior Court of New Jersey on February 20, 1980.

The Superior Court of New Jersey denied a Motion to Quash or Limit four Subpoenas Duces Tecum on February 11, 1980. These Orders are set out in Appendix A.

JURISDICTION

The judgment of the Supreme Court of New Jersey was entered on March 3, 1980 and this petition has been filed within ninety (90) days of that date pursuant to Rule 22(1), Rules of the Supreme Court. The jurisdiction of this Court is invoked pursuant to the provisions of Title 28, United States Code, Section 1257(3).

QUESTIONS PRESENTED

1. Whether submission to a Subpoena Duces Tecum demanding that the entire scope of a religious body's activities be revealed to an agent of the state is entanglement of church and state to such a degree as to be prohibited by the Constitution of the United States.

2. Whether the Constitutional right against self-incrimination can be asserted in regard to the records of an unincorporated church.

3. Whether subpoenas demanding that the entire scope of the activities of a religious body be revealed to an agent of the state are so overbroad and oppressive as to unreasonably infringe on the associational liberty of the church and its members.

4. Whether compliance with such subpoenas is violative of church members' right of privacy.

PROVISIONS INVOLVED

The provisions of law involved are the First, Fifth and Fourteenth Amendments to the United States Constitution, Title 26 U.S.C. Section 7605(c). They are printed in Appendix B.

STATEMENT OF THE CASE

On or about January 30, 1980, four Subpoenas Duces Tecum issued by a grand jury of the State of New Jersey (*see* Appendix C) were served at the Freedom Institute of America location, 38 Meadowlands Parkway, Secaucus, New Jersey, and at the Freedom Church of Revelation, HoHokus, New Jersey. The subpoenas were addressed to:

a. Freedom of Choice;

b. Freedom Institute of America;

c. Life Science Church of Positive Thinking;

d. Universal Life Church.

The subpoenas demanded the production of church religious education and business records and were made returnable on February 11, 1980.

On February 11, 1980, the Petitioners' Motion to Quash or Limit the Subpoenas Duces Tecum was denied

by the Honorable George Y. Schoch, Superior Court of New Jersey. The Court issued no written order reflecting his denial of the Motion to Quash or Limit.

Immediately thereafter, the Petitioners moved on an emergency basis for a stay of the Honorable George Y. Schoch's ruling. This motion was heard on February 20, 1980 by the Honorable Judges Polow, Ard and Matthews of the Superior Court of New Jersey, Appellate Division. This motion was denied.

Petitioners then moved on February 22, 1980 for a stay of the Appellate Division's Order of Denial to the Supreme Court of the State of New Jersey which was denied on March 3, 1980. The Subpoenas Duces Tecum were made returnable on March 11, 1980.

On March 10, 1980, Petitioners submitted an Application to Stay the Order of the Supreme Court of New Jersey pending Petition for a Writ of Certiorari to the Honorable Justice William J. Brennan, Jr., which was denied. Petitioners then submitted the application to the Honorable Justice John Paul Stevens who refused to hear it but who submitted it to this Court. The Application was denied by this Court on March 24, 1980.

The Petitioners are the Freedom Church of Revelation, Reverend Jerome Heinemann, President of the Order for Freedom of Choice, the said Order and the Freedom Institute of America.

The Freedom Church of Revelation is an unincorporated religious body whose status has been recognized by the United States and the State of New Jersey (Appendix D). The Order of Freedom of Choice is an unincorporated religious body and an integrated auxiliary of the Church carrying on the related church activity of religious education. The Freedom Institute of America

is an unincorporated religious body and an integrated auxiliary of the Church which is the body that actually conducts the program of religious education of the Church.

Among the activities which the state seeks to investigate are related church activities involving religious education.

Petitioner, Reverend Jerome Heinemann, refused to comply with the subpoenas pending action by this Court of his Application for Stay and Petition for a Writ of Certiorari. His refusal to comply with said subpoenas was based on the fact that compliance prior to action by this Court would make the legal principles involved in the case moot. Petitioner, Reverend Jerome Heinemann, was adjudged in civil contempt and was committed to incarceration by the Honorable George Y. Schoch, Judge of the Superior Court of New Jersey, on March 14, 1980 and is presently incarcerated in the Mercer County Jail in Trenton, New Jersey.

REASONS FOR GRANTING THE WRIT

I.

THE PETITION PRESENTS IMPORTANT AND RECURRING CONSTITUTIONAL QUESTIONS NOT PREVIOUSLY RESOLVED BY THIS COURT WHICH ARE OF A SUBSTANTIAL NATURE AND OF EXTREME PUBLIC INTEREST.

The questions presented herein involve basic constitutional liberties of a religious organization and its members and the extent to which the state may involve itself in the affairs of religious organizations.

This petition presents sensitive issues arising out of the Bill of Rights regarding entanglement of church and

state through the subpoena process, the applicability of the right against self-incrimination to unincorporated churches, preservation of church members' associational liberty and the right to privacy as regards a religious organization and its members. These issues have never been decided by this Court; however, their importance is apparent in light of past decisions.

The existence of the invisible "wall of separation between church and state" has been recognized on numerous occasions by this Court. *Everson v. Board of Education,* 330 U.S. 1 (1947). Whether a state's power to subpoena the records of the entire scope of a church's activities is an impermissible entanglement of church and state and whether such a power is an infringement on the right of privacy of the church members to such a degree as to be prohibited by the Constitution are important and contemporary questions of constitutional interpretation.

In *United States v. White,* 322 U.S. 694 (1944), the Court granted certiorari to review the specifically limited issue of the scope of the constitutional privilege against self-incrimination as applied to an officer of an unincorporated labor union. The Court, in that case, announced a test which petitioners submit enables Reverend Heinemann to assert the privilege on behalf of an unincorporated religious organization.

In *NAACP v. Alabama,* 357 U.S. 449 (1958), immunity from state scrutiny of the NAACP's membership lists was found to be inseparably related to the members' right to free association for the furtherance of ideas under the Fourteenth Amendment. Similarly, in the case confronting the Court, compelled disclosure of church records, including sources and amounts of donations, would be state infringement on this same fundamental right.

II.

SUBMISSION TO A SUBPOENA DUCES TECUM DEMANDING THAT THE ENTIRE SCOPE OF A RELIGIOUS BODY'S ACTIVITIES BE REVEALED TO AN AGENT OF THE STATE IS ENTANGLEMENT OF CHURCH AND STATE TO SUCH A DEGREE AS TO BE PROHIBITED BY THE CONSTITUTION OF THE UNITED STATES.

This Court has consistently espoused the position that government is barred from becoming involved with religion by the First Amendment. Entanglement of church and state is deemed repugnant because there is no basis on which to predict where mere entanglement stops and where interference begins.

In *Lemon v. Kurtzman,* 403 U.S. 602 (1971), this Court concluded that a state government program requiring examination of a church related school's records was "fraught with the sort of entanglement the Constitution forbids." In the instant case, the state seeks to inspect and evaluate the entire scope of a church's activities including those related to its religious education program. Such involvement in religious affairs constitutes just that type of entanglement which this Court has deemed impermissible and creates the potential threat of continued interference with the policies and beliefs of the petitioners, their followers, and others who are similarly situated.

Surinach v. Pesquera de Busquets, 604 F.2d 73 (1 Cir. 1979), is a case which speaks to the issue at hand. There the Commonwealth of Puerto Rico's Department of Consumer Affairs sought, by way of Subpoena Duces Tecum, financial and business records of the Roman Catholic Church's educational program, including records of donations. The Court held that such activity violated the First Amendment and constituted an impermissible

entanglement of the affairs of church and state. The Court found that the Commonwealth had failed to meet its substantial burden to justify encroachment. It then quoted *Lemon* at p. 76, that religious education programs "involve substantial religious activity and purpose". The Court went on to point out at 78,

> "While we agree that there has been no showing of any purpose to inhibit religion the effect of the Commonwelath's actions . . . constitutes a palpable threat of state interference with the internal policies and beliefs of their church related schools."

In the case at bar, we have a similar situation. The state has issued subpoenas which seek extremely detailed information from a minister about a recognized church, its religious education program and its internal policies.

Petitioners submit that even in the criminal context, the entanglement between church and state which would result in the instant case if the State of New Jersey is permitted to examine the church's records, would be impermissible under the First Amendment. More serious than this is the potential threat which such entanglement poses in the nature of future actions.

If upheld in its actions, the next logical step after examination of the educational and financial records for the state would be surveillance, direction and regulation of the affairs of religious organizations and education. The inevitable result would be an influence of religious beliefs and regardless of how imperceptible that influence may be, the Constitution forbids it.

III.

THE CONSTITUTIONAL RIGHT AGAINST SELF-INCRIMINATION MAY BE ASSERTED IN REGARD TO THE RECORDS OF UNINCORPORATED CHURCHES.

Petitioners are aware of the settled law which is that a custodian of corporate records may not assert a personal privilege against self-incrimination regarding the production of such records in compliance with a Subpoena Duces Tecum. *Wilson v. United States,* 221 U.S. 361 (1911); *Hale v. Henkel,* 201 U.S. 43 (1906). In *United States v. White, supra,* this Court applied the principle to an officer of an unincorporated labor union and held that such an officer could not assert the Fifth Amendment in regard to corporate records. The Court purposely limited its holding in *White* to an officer of a labor union and announced the test to be applied at 701:

> "The test, rather, is whether one can fairly say under all the circumstances that a particular type of organization has a character so impersonal in the scope of its membership and activities that it cannot be said to embody or represent the purely private or personal interests of its constituents, but rather to embody their common or group interests only. If so, the privilege cannot be invoked on behalf of the organization or its representatives in their official capacity."

If this test is to be considered viable, it seems that churches and religious bodies would not meet it and therefore could refuse to produce books and records on the basis of the Fifth Amendment asserted through its religious officer. What organization could more embody the purely private or personal interests of its constituents than a church. One's religious beliefs are clearly among the most personal and private interests

held and developed over the course of a lifetime. One's religion spans far more than just the activity of group worship. It encompasses the way an individual lives his personal life and affects one's relationships with others. The religious organization to which one belongs is the entity through which one practices and expands these beliefs and through which one learns how to apply them to one's everyday life. This is not a case of an assertion of the privilege on behalf of a corporation by an official as in *Wilson v. United States, supra,* nor is it an assertion on behalf of a partnership which the Court disallowed in *Bellis v. United States,* 417 U.S. 85 (1974). The character of a religious organization cannot be labeled "impersonal." A church necessarily embodies the personal interests of its constituents. Under the *White* test, if it is to be deemed workable, Reverend Heinemann was entitled to assert the Fifth Amendment privilege on behalf of his church.

IV.

A SUBPOENA DEMANDING THAT THE ENTIRE SCOPE OF THE ACTIVITIES OF A RELIGIOUS BODY BE REVEALED TO AN AGENT OF THE STATE IS SO OVERBROAD AND OPPRESSIVE AS TO UNREASONABLY INFRINGE ON THE ASSOCIATIONAL LIBERTY OF A CHURCH AND ITS MEMBERS.

The subpoenas in the instant case demand production of records which would reveal the entire scope of the petitioners' religious activity, educational program and business matters to the State Grand Jury. Each subpoena includes a nearly identical itemized list of materials for presentation. Among these items are demands to produce amounts and sources of donations and names and addresses of organizational officials, in this case ordained ministers and members of religious orders.

That the itemized list was obviously taken from discovery forms for business entities and not carefully limited to avoid any infringement on religious liberty shows both the unreasonableness of the demand and its true nature: a fishing expedition, the result of which would be to interfere with the ability of these religious bodies to vigorously propagate their faith and educate their congregation.

In *NAACP v. Alabama, supra,* the Court granted certiorari to review a contempt judgment arising from the NAACP's failure to produce membership lists. The Court held that the NAACP had a right to assert, on behalf of its members, that they were entitled to be protected from state-compelled disclosure of their affiliation with the association. The Court went on to say that freedom to engage in association for the furtherance of beliefs is an integral aspect of the "liberty" of the Fourteenth Amendment.

As in *NAACP,* compelled disclosure of petitioners' records and donation lists should be protected from state scrutiny. Compelled disclosure of names and addresses of petitioners' organizational officials and sources and amounts of donations would effectively restrain the members' freedom of association. It would also constitute the equivalent of the disclosure which the Court prohibited in *NAACP* in regard to membership lists. The similarity between much of the information sought in the case at hand and the membership lists in *NAACP* seems apparent. As in *NAACP,* the likelihood that church members and followers will be discouraged from engaging in the practice of their beliefs if the state is permitted the access is real.

Pursuit of one's private interests in a private manner and to do so through free association with others is protected by the Fourteenth Amendment and it is:

> "immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious, or cultural matters and state action which may have the effect of curtailing the freedom to association is subject to the closest scrutiny." [*NAACP* at 460-61.]

Government action likely to infringe on one's right to free association is prohibited by the Fourteenth Amendment. In the instant case, the state's action will lead to such an infringement.

The Court noted in *NAACP* that even though the state had taken no direct action to restrict the right of petitioners' members to associate freely that doesn't end inquiry into the effect of the production order. Neither should the inquiry in the case at bar stop because freedom of association has not yet been directly inhibited.

In furtherance of the constitutional right of religious liberty, Congress has enacted a comprehensive system of tax exemptions for churches in 26 U.S.C. 7605(c) (*see* Appendix B). Congress has demonstrated its policy of preserving the wall between church and state and encouraging free association for the practice of religion by carefully delineating the audit authority of the Internal Revenue Service in regard to churches. This policy is one which has been consistently followed by this Court and it is one imbedded in the Constitution. Petitioners urge this Court to apply it to the oppressive and overly broad nature of the subpoenas in the case at hand.

Petitioners submit that the subpoenas in the instant case are so overbroad and sweeping as to infringe on their

members' associational liberty. The petitioners and their members' right to free association under the Fourteenth Amendment should prevail when the state is subjected to the strict scrutiny called for in this case.

V.

COMPLIANCE WITH SUCH A SUBPOENA IS VIOLATIVE OF CHURCH MEMBERS' RIGHT TO PRIVACY.

Several fundamental constitutional guarantees create a right of privacy. The First Amendment has a penumbra where privacy is protected from intrusion by the government. The Third, Fourth, Fifth and Ninth Amendments have also been noted by this Court as containing guarantees of the right of privacy. *Griswold v. Connecticut,* 381 U.S. 479 (1965).

In *Buckley v. Valeo,* 424 U.S. 1 (1974), this Court, in considering constitutional challenges regarding the overbroad nature of disclosure requirements contained in the Federal Election Campaign Act of 1971, as amended in 1974, emphasized that it has "repeatedly found that compelled disclosure, in itself, can seriously infringe upon privacy of association and belief guaranteed in the First Amendment." 424 U.S. at 64. Petitioners do not mean to imply that the First Amendment issue in *Buckley* and the case at hand are the same, but merely rely on *Buckley* for the proposition that this Court has recognized that compelled disclosure has First Amendment right to privacy implications, and that such disclosure must survive an exacting level of judicial scrutiny.

The essence of the right to privacy is the right to be free from governmental intrusion and investigation into areas of human relationships and beliefs that are so

fundamentally personal and private in nature that even the state's police power is barred from infringement. The subpoenas in this case would force the church to divulge information about all of its activities, religious and non-religious, including sources and amounts donated to it. This would thereby violate the privacy which church members believed was safe from invasion by the state.

Petitioners submit that a legitimate interest in privacy exists in the case at bar and that submission to the compelled disclosure would encroach on this right to a degree prohibited by the Constitution.

CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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Suite 560
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(202) 296-0993
Attorney for Petitioners

May 28, 1980

APPENDIX

APPENDIX A

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Docket No. AM-452-79

Motion No. M-2458-79

[Filed: Feb. 20, 1980]

STATE OF NEW JERSEY

v.

FREEDOM INSTITUTE OF AMERICA, *etc.*

ORDER ON MOTIONS/PETITIONS

Before Part G

Judges: Matthews, Ard, Polow

Moving Papers Filed:	February 11, 1980 February 19, 1980
Answering Papers Filed:	February 15, 1980
Date Submitted to Court:	February 20, 1980
Date Argued:	_____
Date Decided:	February 20, 1980

ORDER

This matter having been duly presented to the Court, it is hereby ordered as follows:

Motion for Leave to Appeal and for Stay: DENIED

For the Court:

/s/ Robert A. Matthews
P.J.A.D.

WITNESS, the Honorable Robert A. Matthews, Presiding Judge of Part G, Superior Court of New Jersey, Appellate Division, this 20th day of February 1980.

/s/ Elizabeth McLaughlin
Clerk of the Appellate Division

I hereby certify that the foregoing is a true copy of the original on file in my office.

/s/ Elizabeth McLaughlin
Clerk

SUPREME COURT OF NEW JERSEY
September Term 1979

M-515

[Filed: Mar. 4, 1980]

STATE OF NEW JERSEY,
Plaintiff-Respondent,
v.

FREEDOM INSTITUTE OF AMERICA, *et al.*,
Defendants-Movants.

ORDER

This matter having been duly presented to the Court, it is ORDERED that the motion for leave to appeal is denied.

WITNESS, the Honorable Robert N. Wilentz, Chief Justice, at Trenton, this 3rd day of March, 1980.

/s/ Stephen W. Townsend
Clerk

APPENDIX B

PROVISIONS INVOLVED

First Amendment to the United States Constitution (1791)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment to the United States Constitution (1791)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment to the United States Constitution (1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due

process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

26 U.S.C. § 7605(c) /

Restriction on examination of churches

No examination of the books of account of a church or convention or association of churches shall be made to determine whether such organization may be engaged in the carrying on of an unrelated trade or business or may be otherwise engaged in activities which may be subject to tax under part III of subchapter F of chapter 1 of this title (sec. 511 and following, relating to taxation of business income of exempt organizations) unless the Secretary (such officer being no lower than a principal internal revenue officer for an internal revenue region) believes that such organization may be so engaged and so notifies the organization in advance of the examination. No examination of the religious activities of such an organization shall be made except to the extent necessary to determine whether such organization is a church or a convention or association of churches, and no examination of the books of account of such an organization shall be made other than to the extent necessary to determine the amount of tax imposed by this title.

APPENDIX C

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

State Grand Jury No. 60

FREEDOM INSTITUTE OF AMERICA,

Appellant,

v.

STATE OF NEW JERSEY,

Respondent.

APPENDIX

John J. Degnan
Attorney General
13 Roszel Road
Princeton, NJ 08540

John J. Mercum
Deputy Attorney General

EXHIBIT A

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey
County of Mercer } ss

To: Custodian of Records: Universal Life Church
38 Meadowland Parkway
Seacaucus, New Jersey

You are hereby commanded to appear at 13 Roszel Road in the City of Princeton on Feb. 4, 1980 at 9:00 a.m. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (See Attached).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 28th day of January, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

[SEAL]

/s/ John J. Mercun
Deputy Attorney General
(609) 452-9500

Received this subpoena at W. Windsor on 1/28/80 and on 1/28/80 at Hohokus. I served it on the within named person by delivering a copy to him.

Date: 1/28/80 /s/ Thomas [illegible]
[illegible]
Signature and Title

ITEMIZED LIST OF MATERIALS FOR PRESENTATION

All records, documents and other materials pertaining to Universal Life Church, 38 Meadowland Parkway, Seacaucus, New Jersey, from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
11. Purchase agreements, purchase invoices, cancellations, change orders and rebates with any vendors
12. Copies of all insurance policies
13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
17. Copies of closing statements if premises is owned
18. Annual and periodic reports and correspondence of independent accountants
19. Correspondence files
20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

Records of Legal Existence

1. Corporate charter, corporate minute book, by-laws, stock record book, stock transfer and stock certificate book, debenture, partnership agreements and trust indentures

Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
2. Listing of all bank accounts (checking, savings, trust) opened or closed, by name, location, account number, date opened, date closed
3. Monthly reconciliations of bank balances with general ledger balances

Other Records

1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of Universal Life Church, 38 Meadowland Parkway, Seacaucus, New Jersey

EXHIBIT B

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey
County of Mercer } ss

To: Custodian of Records: Freedom of Choice
38 Meadowland Parkway
Seacaucus, New Jersey

You are hereby commanded to appear at 13 Roszel Road in the City of Princeton on Feb. 4, 1980 at 9:00 a.m. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (See Attached).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 28th day of January, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

[SEAL]

/s/ John J. Mercun
Deputy Attorney General
(609) 452-9500

Received this subpoena at W. Windsor on 1/28/80 and on 1/28/80 at Hohokus. I served it on the within named person by delivering a copy to him.

Date: 1/28/80 /s/ Thomas [illegible]
[illegible]
Signature and Title

ITEMIZED LIST OF MATERIALS FOR PRESENTATION

All records, documents and other materials pertaining to FREEDOM OF CHOICE, 38 Meadowland Parkway, Seacaucus, New Jersey, from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
11. Purchase agreements, purchase invoices, cancellations, change orders and rebates with any vendors
12. Copies of all insurance policies
13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
17. Copies of closing statements if premises is owned
18. Annual and periodic reports and correspondence of independent accountants
19. Correspondence files
20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

Records of Legal Existence

1. Corporate charter, corporate minute book, by-laws, stock record book, stock transfer and stock certificate book, debenture, partnership agreements and trust indentures

Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
2. Listing of all bank accounts (checking, savings, trust) opened or closed, by name, location, account number, date opened, date closed
3. Monthly reconciliations of bank balances with general ledger balances

Other Records

1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of Freedom of Choice, 38 Meadowland Parkway, Seacaucus, New Jersey

EXHIBIT C

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey :
: ss
County of Mercer :

To: Custodian of Records: Life Science Church
of Positive Thinking
56 Royal Park Terrace
Hillsdale, N.J.

You are hereby commanded to appear at 13 Roszel Road in the City of Princeton on Feb. 4, 1980 at 9:00 a.m. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (See Attached).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 28th day of January, 1980.

/s/ Mortimer S. Newman, Jr.
Clerk of the Superior Court

[SEAL]

/s/ John J. Mercun
Deputy Attorney General
(609) 452-9500

Received this subpoena at W. Windsor on 1/28/80 and on 1/28/80 at Hohokus. I served it on the within named person by delivering a copy to him.

Date: 1/28/80 /s/ Thomas [illegible]
[illegible]
Signature and Title

ITEMIZED LIST OF MATERIALS FOR PRESENTATION

All records, documents and other materials pertaining to Universal Life Church, 38 Meadowland Parkway, Seacaucus, New Jersey, from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
11. Purchase agreements, purchase invoices, cancellations, change orders and rebates with any vendors
12. Copies of all insurance policies
13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
17. Copies of closing statements if premises is owned
18. Annual and periodic reports and correspondence of independent accountants
19. Correspondence files
20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

Records of Legal Existence

1. Corporate charter, corporate minute book, by-laws, stock record book, stock transfer and stock certificate book, debenture, partnership agreements and trust indentures

Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
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3. Monthly reconciliations of bank balances with general ledger balances

Other Records

1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of Universal Life Church, 38 Meadowland Parkway, Seacaucus, New Jersey

EXHIBIT D

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey
County of Mercer : ss SGJ # 60

To: Life Science Church
of Positive Thiking
56 Royal Park Terrace
Hillsdale, New Jersey

You are hereby commanded to appear at Div. of Criminal Justice, 13 Roszel Road in the City of Princeton on 2/11/80 at 10:00 A.M. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (see attachement).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 4th day of February, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

[SEAL]

John J. Mercun
Deputy Attorney General

Received this subpoena at W. Windsor on 2/4/80 and on 2/4/80 at N. Arlington. I served it on the within named person by delivering a copy to him.

Date: 2/4/80 _____

_____

Signature and Title

All records, documents and other materials pertaining to

LIFE SCIENCE CHURCH OF POSITIVE THINKING
56 Royal Park Terrace
Hillsdale, New Jersey

from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
11. Purchase agreements, purchase invoices, cancellations, change orders and rebates with any vendors
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13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
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19. Correspondence files
20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

Records of Legal Existence

1. Corporate charter, corporate minute book, by-laws, stock record book, stock transfer and stock certificate book, debenture, partnership agreements and trust indentures

Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
2. Listing of all bank accounts (checking, savings, trust) opened or closed, by name, location, account number, date opened, date closed
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Other Records

1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of:

LIFE SCIENCE CHURCH OF POSITIVE THINKING
56 Royal Park Terrace
Hillsdale, New Jersey

EXHIBIT E

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey
County of Mercer : ss SGJ # 60

To: Custodian of Records: Freedom Institute
of America
38 Meadowlands Parkway
Secaucus, New Jersey

You are hereby commanded to appear at Div. of Criminal Justice, 13 Roszel Road in the City of Princeton on 2/11/80 at 10:00 A.M. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (see attachement).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 4th day of February, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

/s/ John J. Mercun
Deputy Attorney General

Received this subpoena at W. Windsor on 2/4/80 and on 2/4/80 at N. Arlington. I served it on the within named person by delivering a copy to him.

Date: 2/4/80 _____

_____

Signature and Title

All records, documents and other materials pertaining to

FREEDOM INSTITUTE OF AMERICA
38 Meadowland Parkway
Seacaucus, New Jersey

from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
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12. Copies of all insurance policies
13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)

15. Detailed schedules of depreciation of capital assets
16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
17. Copies of closing statements if premises is owned
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Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
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Other Records

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2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of:

FREEDOM INSTITUTE OF AMERICA
38 Meadowland Parkway
Seacaucus, New Jersey

EXHIBIT G

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey : ss SGJ # 60
County of Mercer :

To: Universal Life Church
38 Meadowland Parkway
Secaucus, N.J.

You are hereby commanded to appear at Div. of Criminal Justice, 13 Roszel Road in the City of Princeton on 2/11/80 at 10:00 A.M. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (see attachement).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 4th day of February, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

[SEAL]

John J. Mercun
Deputy Attorney General

Received this subpoena at W. Windsor on 2/4/80 and on 2/4/80 at N. Arlington. I served it on the within named person by delivering a copy to him.

Date: 2/4/80 _____

_____

Signature and Title

All records, documents and other materials pertaining to

UNIVERSAL LIFE CHURCH
38 Meadowland Parkway
Seacaucus, New Jersey

from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
5. Monthly Financial Operating Statements and related workpapers and correspondence
6. Cash Receipts and Cash Disbursements Journals
7. Purchase Journal or Voucher Registers
8. Details of mortgages and loans payable and/or receivables
9. All lease agreements (original and amended) for any items
10. Inventory lists describing and identifying all items included in each lease agreement
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12. Copies of all insurance policies
13. All invoices in support of acquisition of assets, all purchases and operating expenses
14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

16. Retained copies of Federal Income Tax Returns, New Jersey Corporate Business Tax Returns
17. Copies of closing statements if premises is owned
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20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

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2. Employee earnings records and employee time sheets and/or time cards
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4. Retained copies of quarterly Federal Tax Reports Form 941
5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
10. Personnel files and records for all persons employed in any capacity for any part of period involved
11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
2. Listing of all bank accounts (checking, savings, trust) opened or closed, by name, location, account number, date opened, date closed
3. Monthly reconciliations of bank balances with general ledger balances

Other Records

1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of:

UNIVERSAL LIFE CHURCH
38 Meadowland Parkway
Seacaucus, New Jersey

EXHIBIT H

SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW JERSEY

State of New Jersey
County of Mercer
ss
SGJ # 60

To: Freedom of Choice
38 Meadowlands Parkway
Secaucus, New Jersey

You are hereby commanded to appear at Div. of Criminal Justice, 13 Roszel Road in the City of Princeton on 2/11/80 at 10:00 A.M. to give evidence before the State Grand Jury and you are ordered to appear without prepayment of witness fee and bring with you the following records: (see attachement).

If you fail to appear and produce the said records, a warrant may be issued for your arrest and you may be charged with contempt.

WITNESS, the Honorable George Y. Schoch, Judge of the Superior Court, this 4th day of February, 1980.

/s/ W. Lewis Bambrick
Clerk of the Superior Court

[SEAL]

John J. Mercun
Deputy Attorney General

Received this subpoena at W. Windsor on 2/4/80 and on 2/4/80 at N. Arlington. I served it on the within named person by delivering a copy to him.

Date: 2/4/80 _____

_____

Signature and Title

All records, documents and other materials pertaining to

FREEDOM OF CHOICE
38 Meadowlands Parkway
Seacaucus, New Jersey

from the period January 1, 1978 to January 15, 1980, including but not limited to:

Accounting and Bookkeeping Records

1. General Ledgers and General Journals
2. Accounts Receivable Ledger
3. Accounts Payable Ledger
4. Monthly Trial Balances of General Ledger
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14. Detailed records of capital assets (acquisition and disposition)
15. Detailed schedules of depreciation of capital assets

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17. Copies of closing statements if premises is owned
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20. Petty cash funds, description of funds, amount of each fund, petty cash voucher slips with supporting documentation

Records of Legal Existence

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Payroll Records

1. Payroll Journal
2. Employee earnings records and employee time sheets and/or time cards
3. Receipts for deposit of Federal Income Tax withheld and employee and employer contributions to Social Security Program
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5. Retained copies of Federal Form W-2 all employees
6. Retained copies of Federal Forms 1099 and 1096
7. Copies of Federal Form W-4 all employees
8. Authorization forms supporting optional payroll deductions

9. Employee benefit program descriptions with names of participating employees
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11. Copies of all Federal Unemployment Insurance Forms 940
12. Annual State Disability Benefits Tax Return TD-32
13. New Jersey Payroll Tax Returns UC27-D
14. All union contracts covering specified period

Bank Records

1. Bank statements, cancelled checks and check stub books and receipted deposit tickets for all bank accounts
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3. Monthly reconciliations of bank balances with general ledger balances

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1. Inventory records of non-expendable property, including furniture and equipment (whether purchased or donated)
2. Copies of any and all United States Department of Treasury-Internal Revenue Service forms filed or prepared, including but not limited to an application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code
3. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration

with the Secretary of State, State of New Jersey, for recognition of exempt status

4. Any and all correspondence and/or forms filed and/or prepared for the purposes of registration with the New Jersey State Division of Taxation for recognition of exempt status

5. Names, addresses, duties and compensation of officers, directors, trustees and employees of:

FREEDOM OF CHOICE
38 Meadowlands Parkway
Seacaucus, New Jersey

APPENDIX D

Internal Revenue Service
District Director
P. O. Box 260, Newark, NJ 07101

Department of the Treasury

Letter 947(DO) (5-77)

Date: June 8, 1979

Employer Identification Number:
22-2247325

Accounting Period Ending:
December 31

Form 990 Required:
☐ Yes ☐ No

Freedom Church
of Revelation
Four Whispering Pines Road
Hohokus, New Jersey 07423

Person to Contact:
E. Knust

Contact Telephone Number:
201—645-3266

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 509(a)(1) and 170(b)(1)(A)(i).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. Also, you should inform us of all changes in your name or address.

Generally, you are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as

provided in the Federal Insurance Contributions Act. If you have paid FICA taxes without filing the waiver, you should contact us. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

The box checked in the heading of this letter shows whether you must file Form 990, Return of Organization Exempt from Income tax. If Yes is checked, you are required to file Form 990 only if your gross receipts each year are normally more than $10,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of $10 a day, up to a maximum of $5,000, when a return is filed late, unless there is reasonable cause for the delay.

You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter, we are not determining whether any of your present or proposed activities are

unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees.

If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

/s/ Cornelius J. Coleman
District Director

79-1893

Supreme Court, U. S.
FILED
JUL 18 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

FREEDOM INSTITUTE OF AMERICA, FREEDOM CHURCH OF REVELATION, ORDER OF FREEDOM OF CHOICE, REVEREND JEROME HEINEMAN,

Petitioners,

vs.

STATE OF NEW JERSEY,

Respondent.

On Petition for Writ of Certiorari to the Supreme Court of New Jersey

BRIEF IN OPPOSITION

JOHN J. DEGNAN,
Attorney General of New Jersey,
Attorney for Plaintiff-Respondent,
State of New Jersey,
State House Annex,
Trenton, New Jersey 08625.

JOHN DECICCO,
Deputy Attorney General,
Division of Criminal Justice,
Of Counsel.

PETER BRENNAN,
DEBRA L. STONE,
Deputy Attorneys General,
Division of Criminal Justice,
Of Counsel and
On the Brief.

Adams Press Corp., 5 Commerce Street, Newark, N. J. 07102—(201) 623-8611

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Cases Cited

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No.

FREEDOM INSTITUTE OF AMERICA, FREEDOM CHURCH OF REVELATION, ORDER OF FREEDOM OF CHOICE, REVEREND JEROME HEINEMAN,

Petitioners,

vs.

STATE OF NEW JERSEY,

Respondent.

On Petition for Writ of Certiorari to the Supreme Court of New Jersey

BRIEF IN OPPOSITION

Opinions Below

The Order of the New Jersey Supreme Court denying Petitioners' Motion for Leave to Appeal and to Stay an Order of the Superior Court of New Jersey, Appellate Division, appears in Petitioners' appendix at 3a. The

Order of the Superior Court of New Jersey, Appellate Division, denying Petitioners' Motion for Leave to Appeal and to Stay an Order of the Superior Court of New Jersey, Law Division, appears in Petitioners' appendix, at 1a. The Order of the Superior Court of New Jersey, Law Division, denying Petitioners' Motion to Quash or Limit for Subpoena Duces Tecum is set out in Petitioners' appendix at 1a.

Constitutional Provisions Involved

First Amendment to the United States Constitution (1791):

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment to the United States Constitution (1791):

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment to the United States Constitution (1868):

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Statement of the Case

On January 28, 1980, in conjunction with a State Grand Jury investigation, grand jury *subpoenas duces tecum* were served on the Freedom Institute of America, Freedom of Choice, Life Science Church of Positive Thinking, and the Universal Life Church.

On February 11, 1980, the Honorable George Y. Schoch, after a hearing, denied a motion to quash and a motion for a stay. The return date of the subpoenas was adjourned until February 21, 1980, to allow appellant to seek leave to appeal the denial of the motions to the Appellate Division. On February 20, 1980, the Appellate Division (Judges Matthews, Ard and Polow), denied the application for leave to appeal. An application for leave to appeal was made to this Court and denied on March 3, 1980.

On March 6, 1980, appellant filed a 42 U.S.C. 1983 action in Federal District Court and applied to Judge Lacey for emergent relief enjoining enforcement of the sub-

poenas. After a hearing, the application was denied. On March 10, 1980, Justice William J. Brennan, Jr., denied an application for a stay in the matter. The return date of the subpoena had been adjourned to March 11, 1980 to accommodate these appeals. On March 24, 1980, a stay was denied by the full Court.

On March 12, 1980, after a hearing, Judge Schoch found that the petitioner, admitting that he was the custodian of records for Freedom of Choice and Freedom Institute of America and in possession of the subpeonaed records of these organizations, had refused to comply with the subpoenas by producing the documents in question. Judge Schoch found the petitioner in contempt and ordered him incarcerated pending compliance with the State Grand Jury subpoenas.

On March 15, 1980, the Honorable John W. Fritz, J.A.D., denied an emergent application for a stay of Judge Schoch's order.

On April 18, 1980 petitioner filed a petition for a Writ of Habeas Corpus. The petition was dismissed the same day by the Honorable Dickinson R. Debevoise, U.S.D.J., for failure to exhaust State remedies in that no direct appeal was taken of Judge Schoch's order. A motion to reconsider the dismissal was denied May 12, 1980.

Notice of Appeal was filed April 18, 1980. An amended Notice of Appeal was filed May 16, 1980. (The State did not receive notice of these filings until the proceedings at Justice Handler's Chambers.)

On May 21, 1980, Honorable Morton I. Greenberg, J.A.D., denied petitioner's motion for a stay of Judge Schoch's order pending appeal.

On May 22, 1980, Justice Handler denied petitioner's motion for a stay, finding the organizations in question

were the subject of a *bona fide* investigation and that there was no sufficient probability of success on appeal. The denial was without prejudice to file a reapplication to the full court on Tuesday, May 27, 1980. The motion for the stay was denied on May 28, 1980.

REASONS FOR DENYING THE PETITIONERS' REQUEST FOR A WRIT OF CERTIORARI

POINT I

The petition presents no constitutional questions which have not been previously decided by this Court.

Petitioner challenges the subpoenas issued in the course of a criminal investigation which compel production of the financial records of a purported religious organization in question on two grounds. First, he alleges that production would violate his Fifth Amendment right against self-incrimination. Second, petitioner alleges that the subpoenas violate his rights under the Free Exercise clause.

The petition presents no constitutional questions which have not been previously decided by this Court against the contentions advanced by defendant.

It is well settled law that an individual custodian of financial records of an unincorporated association has no standing under the Fifth Amendment to withhold financial records of that association which are the subject of a grand jury subpoena. *United States* v. *Bellis,* 417 U.S. 85 (1974); *United States* v. *White,* 322 U.S. 694 (1944); *Wilson* v. *United States,* 222 U.S. 361 (1911). As the

Court noted in *Bellis,* relying on *White,* the privilege is "limited to its historic function of protecting only the natural individual from compulsory incrimination through his own testimony or personal records," See also *In re Grand Jury, Empanelled February 14, 1978,* 597 F. 2d 851 (3 Cir. 1979).

More recently this Court has had occasion to rule on the question of whether the free exercise clause or freedom of association under the First Amendment provide any basis for withholding financial records subpoenaed from a purported religious organization in the course of a criminal investigation. This Court held that where the State has a compelling interest sufficient to outweigh the possibility of an incidental infringement on First Amendment rights, there is no constitutional basis for withholding the subpoenaed records. *Worldwide Church of God, Inc.* v. *Superior Court of California for Los Angeles County,* —— U.S. ——, 48 USLW 3780 (Decided June 2, 1980) (Petitions for Writs of Mandate and/or Prohibition to set aside a series of discovery orders attendent to state investigation of church's financial affairs are denied); *Ambassador College* v. *Goetzke,* —— U.S. ——, 48 USLW 3536 (Church-related colleges claim that discovery during civil litigation of information relating to its organization, mode of operation, and tactics vis-a-vis securing execution of deeds and real estate trust agreements would violate its constitutional right to freedom of association would, if substantiated, relate primarily to admissibility in evidence of such information, but does not forbid its compelled production); *Rader* v. *California,* —— U.S. ——, 48 USLW 3258 (October 16, 1979) (Hearing denied on order that personal advisor to leader of religious society attend and answer questions propounded at deposition in connection with investigation into financial affairs of religious society).

These decisions in the specific context of subpoenas issued in the course of a criminal investigation for financial records of purported religious organizations, accord with the general principles of First Amendment Law. *Branzburg* v. *Hayes,* 408 U.S. 665 (1972). The State of New Jersey respectfully urges this Court to deny certiorari in the instant matter as it has in the aforementioned cases presenting identical issues.

POINT II

The challenged subpoenas are not overbroad nor are they violative of petitioner's First Amendment rights or his right of privacy.

The subpoenas in question were issued in the course of a State Grand Jury investigation into alleged criminal violations of N.J.S.A. 2A:111-1, obtaining money by false pretenses, by certain auxilliary organizations at the Freedom Church of Revelation. The subpoenas call for the production of financial records of these entities which relate to the alleged crimes under investigation. They do not call for the production of any materials related to the religious beliefs or acts of the subpoenaed entities.

> The free exercise is no talisman . . . which automatically protects religious organizations from any governmental regulation. The religious character of an organization does not provide a shield from regulation which in no way affects either religious beliefs or acts. *In re Rabbinical Seminary,* 450 F. Supp. 1078 (E.D.N.Y. 1978)

The instant case falls squarely within the holding of *In re Rabbinical Seminary.* While *Buckley* v. *Valeo,* 424

U.S. 1 (1976), stands for the principle that compelled disclosure of financial transactions and records "can infringe on privacy of association and belief guaranteed by the First Amendment," petitioner here has failed to demonstrate any such infringment on the record presented. This is in contrast to the factual basis of *N.A.A.C.P.* v. *Alabama,* 357 U.S. 449 (1957) on which petitoner purports to rely:

> [The N.A.A.C.P.] has made an uncontroverted showing that on past occasions, revelations of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility. 357 U.S. at 462-63.

Even assuming that a showing of the subpoenas in some way burdens petitioner's right of privacy, disclosure of the subpoenaed records is justified by the compelling interest of the State in obtaining the financial records in question and the substantial relation between that interest and the records sought. *N.A.A.C.P.* v. *Alabama, supra,* at 463; *Buckley* v. *Valeo, supra* at 64-66.

Surinach v. *Pesquera de Busquets,* 604 F. 2d 73 (1 Cir. 1979), on which petitioner purports to rely, specifically exempts from its holding those cases in which the records of a religious organization are subpoenaed pursuant to a criminal investigation, a situation in which the State's interest is unquestionably "strong". (Cites omitted). 604 F. 2d at 80. "The investigation of crime by the grand jury implements a fundamental governmental role of securing the safety of the person and property of the citizen." *Branzburg* v. *Hayes,* 408 U.S. 665 (1972).

The documentation demanded in the challenged subpoenas clearly bears a substantial relation to the subject

matter of the criminal investigation. In this, the instant case parallels within the holding of *In re Rabbinical Seminary, supra.*

> The subpoenaed material all relates to the financial operations of the Seminary and of its students' loan transactions. There is no showing that the grand jury investigation is other than an inquiry into the possibility that the Seminary obtained funds by making false claims and subsequently misused those funds. 450 F. Supp. at 1083.

The subject of the instant investigation is not student loans but rather the obtaining of funds by the entities under subpoena through the false representation that persons purchasing ministerships could obtain tax deductions for non-religious expenditures. The factual situations between the two cases are parallel and the rationale of *In re Rabbinical Seminary,* is clearly applicable. The affidavit appended setting forth the facts giving rise to the instant criminal investigation on its face raises "sufficiently suspicious" circumstances justifying, and indeed requiring, a grand jury investigation. *Bursey* v. *United States,* 466 F. 2d 1059, reh. denied 466 F. 2d 1090 (9 Cir. 1972).

The subpoenas in question clearly meet the three-part test against which subpoenas must be measured when their reasonableness is challenged. First, as noted above, the requested material meets not only the "possible connection, but the substantial relationship" test in light of the affidavit appended describing the nature of the investigation. Second, the demanded documents are particularly described financial records. The particularity of the description clearly limits the demand to financial records and avoids any unnecessary entanglement in matters of belief or doctrine. Third, the challenged subpoenas

call for the production of financial records for two fiscal years. As noted in *In re Rabbinical Seminary, supra* at 1084, which upheld a subpoena for seven years of financial records:

> No magic figure limits the vintage of documents subject to a grand jury subpoena. The law requires only that the time bear some relation to the subject matter of the investgation. *In re Grand Jury Subpoena Duces Tecum,* 203 F. Supp. 575 (S.D. N.Y. 1961).

The subpoenas in question clearly meet this three-part test and allow the grand jury to examine the relevant financial data in its investigation.

CONCLUSION

For the reasons set forth herein, it is respectfully urged that the petition for Writ of Certiorari should be denied.

Respectfully submitted,

JOHN J. DEGNAN,
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On the Brief.

SUPREME COURT OF NEW JERSEY

FREEDOM INSTITUTE OF AMERICA et al.

v.

STATE OF NEW JERSEY

Affidavit of John J. Mercun, Esq., February 28, 1980

JOHN J. MERCUN, of full age, being duly sworn according to law upon his oath deposes and says:

1. I am a Deputy Attorney General for the State of New Jersey.

2. I have been assigned to investigate organizations claiming to be churches which promote the sale of church charters and ministers credentials. These organizations claim that an individual who purchases a ministry may reduce his tax liability, both State and Federal, by claiming tax exempt status as a religious organization. The investigation has reached a stage where it is presently pending before a State Grand Jury.

3. The promoters of these ("mail order") ministeries suggest that the individual purchasing the ministry and the organization he establishes as a result thereof needs to have no creed, dogma, moral code, and that the persons purchasing the ministry need undertake no specific duties

or responsibilities of a minister and these promoters often imply that these organizations can be operated solely to provide benefits to the individuals creating them.

4. The promoters of these plans often imply that the fact that organization from which the individual ultimately purchases the ministry has a tax exempt number automatically qualifies the individual for tax exempt status when, in fact, each new organization must make its own application for such a status.

5. The State Grand Jury's purpose in this investigation is to determine whether certain individuals and organizations were in violation of N.J.S.A. 2A:111-1 (Obtaining money by false pretenses) and N.J.S.A. 54A:9-15(a) (Attempt to evade tax) or may be in violation of N.J.S.A. 2C:20-4 (Theft by deception).

6. On July 12, 1979, the New Jersey Department of Consumer Affairs, Office of Consumer Protection, informed the New Jersey Division of Criminal Justice of the existence of a possible fraud and taking money by false pretenses related to the sale of ministeries in the Universal Life Church by Frank Conti, President of Freedom of Choice and Freedom Institute of America.

7. On May 1, 1979, a representative of the New Jersey Department of Consumer Affairs, Office of Consumer Affairs, attended an "opportunity meeting" conducted by Frank Conti at the Sheridan Inn, Hasbrouck Heights, New Jersey.

8. During the course of this meeting, Mr. Frank Conti represented that individuals could earn substantial tax savings by purchasing a ministry for Fifteen Hundred Dollars (1,500.00) in the Universal Life Church/Free-

dom Institute of America programs. Mr. Conti represented that as a minister, 50% of the individuals gross income could be donated to his "church". From this donation, the "church" could purchase homes, cars, vacations, etc. for the minister. Among the other benefits to be derived through the purchase of this ministry, as represented by Conti, are exemptions from Federal and State Income tax, exemptions from "Capital Gains" taxes, exemption from social security payments. It was also represented by Conti that the membership fee would be reduced from Fifteen Hundred ($1,500.00) to Twelve Hundred Dollars ($1,200.00) if an individual enrolled in this program within seven days of this meeting. Also outlined at this time was a commission program. A minister ($1,500.00 investment) would receive a twenty (20) percent commission for selling ministries in the Universal Life Church/Freedom Institute of America Program; a director ($2,500.00 investment) received a forty (40%) commission for the sale of these ministries. The audience was informed that these activities would be tax exempt because they were church donations since the money would be going from his "church" to the seller's "church".

9. As a result of this information, an investigator for the State of New Jersey, Division of Criminal Justice, attended an "opportunity meeting" at the Sheraton Inn, Hasbrouck Heights, New Jersey, held on August 21, 1979.

10. The August 21, 1979 meeting was conducted by Mr. Joseph Conglione and Mr. Frank Conti. In addition to the representations made at the May 1, 1979 meeting, Mr. Conti represented for example, that improvements on a "minister's" home (now the "parsonage") such as a "baptismal" pool would be paid for by the church, and therefore, tax exempt; the payment by the church for a con-

gregational meeting in Las Vegas "to convert the slot machines" would be paid by the "church" and therefore tax exempt. The fee for obtaining the ministry was now Sixteen Hundred and Ninety Five Dollars ($1,695.00). This fee was to be made as a donation to Freedom Institute of America.

11. On Monday, September 17, 1979, an article appeared in the Bergen Record, a newspaper, regarding Mr. Conti's operation. A copy of that article has been annexed to this Affidavit.

12. As a result of the foregoing, a state grand jury has commenced an investigation into the operation of Freedom Institute of America, Freedom of Choice, Universal Life Church, Frank Conti and other similar operations presently in existence throughout the State of New Jersey.

13. In connection with this investigation, the state grand jury has issued the subpoenas duces tecum which are now the subject matter of this application.

JOHN J. MERCUN
Deputy Attorney General

(Sworn to February 28, 1980)